



SUPPLEMENTAL ENVIRONMENTAL PROJECTS (SEPs) FISCAL YEAR 2002 COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

U.S. EPA REGION 5 - Office of Regional Counsel

(An electronic version of this report is available at: <http://www.epa.gov/region5/orc/reports.htm>)

Introduction:

What are SEPs?

EPA defines SEPs as environmentally beneficial projects which a defendant/respondent agrees to undertake in settlement of an enforcement action, but which the defendant/respondent is not otherwise legally required to perform. On April 10, 1998, EPA issued its final SEP Policy (available at: <http://www.epa.gov/compliance/civil/seps/>), which sets forth, among other things, uses of SEPs, categories of SEPs, and legal guidelines for SEPs.

SEPs may not be appropriate in settlement of all cases, but they are an important part of EPA's enforcement program. While penalties play an important role in environmental protection by deterring violations and creating a level playing field, SEPs can play an additional role in securing significant environmental or public health protection and improvements. SEPs bring regulated entities above and beyond mere compliance with federal environmental laws. Also, a SEP may be particularly appropriate to further the objectives in the statutes EPA administers and to achieve other policy goals, including promoting pollution prevention and environmental justice. As a general rule, the net costs to be incurred by a violator in performing a SEP may be considered as one factor in determining an appropriate settlement amount. Thus, in some instances, a cash penalty may be lowered if the violator chooses to perform an acceptable SEP.

EPA encourages SEPs that fit into at least one of the following eight categories: 1) Public Health; 2) Pollution Prevention; 3) Pollution Reduction; 4) Environmental Restoration and Protection; 5) Emergency Planning and Preparedness; 6) Assessments and Audits; 7) Environmental Compliance Promotion; and 8) Other Types of Projects that have environment merit but do not fit within the categories listed above. Also, SEPs must be related to the alleged violation. Once a SEP is approved and agreed upon, EPA does not manage the SEP or control the money for the project, but does provide oversight to ensure that the company performs the SEP as agreed.

For a more complete description of EPA's SEP program please visit Region 5 ORC's SEP description Web page at: <http://www.epa.gov/region5/orc/annualreports/sepdescr.htm>.

ORC's SEP Case Lists

Below you will find two comprehensive, descriptive lists of all Region 5 enforcement cases concluded in Fiscal Year 2002 that include SEPs as part of the settlement agreement. The first list orders the cases alphabetically, the second list orders the cases by statute.

A few important notes concerning the content and format of these lists will help you, the reader, better understand the information the lists present.

For each case, the lists provide: 1) the name and address of the Defendant or Respondent (the term "Respondent" refers to the party to whom an administrative order was issued or an administrative complaint was served; the term "Defendant" refers to the party in a civil judicial lawsuit against whom relief is sought); 2) the enforcement action identifier number, which is the number the EPA uses to identify the case; 3) the type of SEP, i.e. Pollution Prevention, Pollution Reduction . . . *etc.*, see SEP categories above; 4) the SEP description; 5) the value of the SEP; 6) the applicable statute; 7) the type of order, i.e. civil judicial or administrative; 8) the date of the order; 9) the original and final penalty; 10) the cost of the injunctive relief; and 11) the Quantitative Reductions (estimated), which indicate the estimated amount of pollutant projected to be reduced, eliminated or prevented as a result of the SEP.

As mentioned above, because EPA's SEP policy provides penalty mitigation incentives in those cases involving both a SEP and a monetary penalty, it is not uncommon to find that the penalty has been reduced upon the successful negotiation of the SEP. For this reason, both the original and the final penalties are provided for those cases that include a penalty.

It is also worth noting that this report simply describes the SEP that the Respondent or Defendant agreed to undertake as part of the settlement, it does not indicate whether the SEP has been completed. Accordingly, the "Value of SEP" number may not reflect the actual cost of the SEP; rather, this number represents the projected cost value of the SEP at the time of settlement.

For more information about Region 5 Office of Regional Counsel's FY 2002 end-of-year reports, go to: <http://www.epa.gov/region5/orc/reports.htm>.

CERCLA

Number of CERCLA cases with SEPs:	4
Total cost value of SEPs in CERCLA cases:	\$471,037
Value of final penalties in CERCLA cases with SEPs:	\$47,826
Number of pollution prevention SEPs in CERCLA cases:	1

Ameren Corporation
701 Main St.
Venice, IL

Enforcement Action Identifier:	05-2001-1700
Attorney/Program Contacts:	James Cha/James Entzminger
Type of SEP:	Emergency Planning and Preparedness

SEP Description: Ameren Corporation has committed to purchase one decon shelter with accessories and a propane heater, six superpro cooling vests, and one-hundred gallons of alcohol resistant (3%-6%) aqueous film forming foam, and donate this equipment to the Madison County Local Emergency Planning Committee.

Value of SEP: \$15,050

Statute: Comprehensive Environmental Response, Compensation, and Liability Act

Type of Order: Administrative Penalty Order

Date of Order: 01/10/2002

Original/Final Penalty: \$35,065/\$14,825

Cost of Injunctive Relief: \$0

Quantitative Reductions (estimated amount):N/A

Indianapolis Water Company
7601 W. 56th St.
Indianapolis, IN

Enforcement Action Identifier: 05-2001-0433

Attorney/Program Contacts: Tamara Carnovsky/Ruth McNamara

Type of SEP: Pollution Reduction

SEP Description: Indianapolis Water Company has committed to construct a containment area around the perimeter of the site with an impervious concrete base. This containment area will eliminate the possibility of another hazardous substance release to the ground at this facility.

Value of SEP: \$40,000

Statute: Comprehensive Environmental Response, Compensation, and Liability Act

Type of Order: Administrative Penalty Order

Date of Order: 11/14/2001

Original/Final Penalty: \$20,626/\$3,351

Cost of Injunctive Relief: \$0

Quantitative Reductions (estimated amount):N/A

John Morrell & Co.
801 E. Kemper Rd.
Springdale, OH

Enforcement Action Identifier: 05-2001-3637

Attorney/Program Contacts: Robert Guenther/James Entzminger

Type of SEP: Pollution Prevention/Equipment-Technology Modification

SEP Description: John Morrell & Co. will replace 7 smoke generators with 7 super-heated smoke generators and 7 water scrubbers. This SEP is designed to remove 91% of volatile organic compounds (VOCs) and 87% of formaldehyde from their current emissions.

Value of SEP: \$401,000

Statute: Comprehensive Environmental Response, Compensation, and Liability Act

Type of Order: Administrative Penalty Order

Date of Order: 0/16/2002

Original/Final Penalty: \$155,830/\$1,041

Cost of Injunctive Relief: \$0

Quantitative Reductions (estimated amount): 6,600 lbs. of VOCs per year

Union Electric Company a/k/a Amerenue
701 South Main St.
Chatham, IL

Enforcement Action Identifier: 05-2001-0508

Attorney/Program Contacts: James Cha/James Entzminger

Type of SEP: Emergency Planning and Preparedness, Public Health

SEP Description: Union Electric Company (a/k/a Amerenue) will purchase hazardous materials equipment and donate them to the Madison County local emergency planning committee. The equipment includes one Zumro Decon shelter with accessories and a propane heater, six super pro cooling vests, and one-hundred gallons of alcohol resistant (3%-6%) aqueous film forming foam. This SEP has been initiated and requested by the local community.

Value of SEP: \$14,987

Statute: Comprehensive Environmental Response, Compensation, and Liability Act

Type of Order: Administrative Penalty Order

Date of Order: 01/10/2002

Original/Final Penalty: \$35,065/\$14,824

Cost of Injunctive Relief: \$0

Quantitative Reductions (estimated amount): N/A